

Serial No.: 10/644,746
Atty. Docket No.: P69009US0

REMARKS

The Office Action mailed January 26, 2006, has been carefully reviewed and by this Amendment, Applicants have canceled claims 1-4 and added claims 5-17. Claims 5-17 are pending in the application. Claims 5 and 12 are independent.

As an initial matter, Applicants have corrected informalities noted in the specification, including the addition of headings and the correction of informalities in the abstract. Further, the text added to pages 1 and 2 of the specification represents the subject matter of the claim which was previously referenced; accordingly, no new matter has been added.

The Examiner rejected claim 4 under 35 U.S.C. 112, second paragraph, as being indefinite. By this Amendment, Applicants have canceled claims 1-4 and presented new claims 5-17 which are in conformity with 35 U.S.C. 112, second paragraph.

The Examiner rejected claims 1-4 under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 4,366,061 to Papanek et al. ("Papanek"). With the cancellation of claims 1-4, the rejection is technically moot. However, with respect to new claims 5-17, Applicants provide the following remarks.

As set forth in each of claims 5 and 12, the present invention is directed to a device for carrying fluids for a medical treatment device. The device includes two balancing chambers of

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equal volume, with each balancing chamber being separated into a first partial chamber and a second partial chamber by a flexible separating wall. Each of the partial chambers has a respective supply line and a respective discharge line through which fluid may flow into and out of the respective partial chamber. A monitoring device is configured to initially determine the filling times of the first partial chambers or of the second partial chambers or both, and to compare the filling times so determined to detect a filling time difference which indicates leakage or an incomplete filling or discharging of the respective partial chambers. This is not shown or suggested by the prior art.

Papanek discloses an apparatus and method for controlling negative pressure hemodialysis treatments. The apparatus includes a pair of cylinders, each of which is divided into two chambers by a hydraulically driven diaphragm, which supply fresh dialysate to and remove spent dialysate from an artificial kidney on an alternating time basis. Under ideal conditions, each of the diaphragms will reach the end of its stroke at the same time. However, in practice this often does not occur. Accordingly, Papanek is directed to a system and method for sensing a difference in the end of stroke time and for providing corrective signals to devices controlling dialysate flow rate in order to synchronize the ends of the diaphragm strokes (see, e.g., column 9, lines 48-59).

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There is no device for monitoring the filling times of the respective chambers within each cylinder, and no comparison of such filling times to detect a time difference indicating leakage or an incomplete filling or discharging of the respective chambers, as claimed in the present application. Nor is there any suggestion of such a monitoring device. Rather, Papanek is concerned only with synchronization of the diaphragms so that they reach their end of stroke position at the same instant in time.

For at least the foregoing reasons, claims 5 and 12 are patentable over the prior art. Claims 6-11 and 13-17 are also in condition for allowance as claims properly dependent on an allowable base claim and for the subject matter contained therein.

More particularly, the prior art does not disclose a device such as that set forth in claims 6, 7, 13 and 14 in which a leak detection signal is released by an optical and/or acoustical signal generator if a predetermined filling time difference (ΔT) is exceeded, nor one in which the leak detection signal cannot be released until the predetermined time difference (ΔT) is exceeded several times according to predetermined criteria, as provided in claims 8 and 15.

With this amendment and the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any questions or comments,

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the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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